

HB0086S03 compared with HB0086S02

~~{Omitted text}~~ shows text that was in HB0086S02 but was omitted in HB0086S03
inserted text shows text that was not in HB0086S02 but was inserted into HB0086S03

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1 **Homeowners' Association Requirements**
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson



2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to homeowners' associations.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ increases the monetary amount a unit or lot owner may request if an association fails to properly make records available for examination;
- 10 ▶ prohibits a declarant from using association funds in a legal action brought by a homeowner before the end of the period of administrative control;
- 12 ▶ amends provisions relating to the period of administrative control for associations of lot owners;
- 14 ▶ provides that a declarant may not count undeveloped land toward the total number of lots when determining the end of the period of administrative control;
- 16 ▶ prohibits the declarant from making a change to the declaration during the period of administrative control after the declarant conveys ~~{at least one lot}~~ 80% of lots to a lot owner; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

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20 None

21 **Other Special Clauses:**

22 None

24 AMENDS:

25 **57-8-17** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
2022, Chapter 439

26 **57-8-58** , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah 2017,
Chapter 284

27 **57-8a-227** , as last amended by Laws of Utah 2022, Chapter 439 , as last amended by Laws of Utah
2022, Chapter 439

28 **57-8a-229** , as enacted by Laws of Utah 2017, Chapter 284 , as enacted by Laws of Utah 2017,
Chapter 284

29 **57-8a-502** , as last amended by Laws of Utah 2016, Chapter 210 , as last amended by Laws of Utah
2016, Chapter 210

30

31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **57-8-17** is amended to read:

33 **57-8-17. Records -- Availability for examination.**

34 (1)

(a) Subject to Subsection (1)(b) and regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association of unit owners shall keep and make available to unit owners:

38 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~] in the manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

41 (ii) a copy of the association's:

42 (A) governing documents;

43 (B) most recent approved minutes;

44 (C) most recent budget and financial statement;

45 (D) most recent reserve analysis; and

46 (E) certificate of insurance for each insurance policy the association of unit owners holds.

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- 48 (b) An association of unit owners may redact the following information from any document the
association of unit owners produces for inspection or copying:
- 50 (i) a Social Security number;
- 51 (ii) a bank account number; or
- 52 (iii) any communication subject to attorney-client privilege.
- 53 (2)
- (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:
- 55 (i) make documents available to unit owners in accordance with the association of unit owners'
governing documents; and
- 57 (ii)
- (A) if the association of unit owners has an active website, make the documents described in
Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website;
or
- 60 (B) if the association of unit owners does not have an active website, make physical copies of the
documents described in Subsections (1)(a)(ii)(A) through (C) available to unit owners during
regular business hours at the association of unit owners' address registered with the Department of
Commerce under Section 57-8-13.1.
- 65 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 66 (c) If a provision of an association of unit owners' governing documents conflicts with a provision of
this section, the provision of this section governs.
- 68 (3) In a written request to inspect or copy documents:
- 69 (a) a unit owner shall include:
- 70 (i) the association of unit owners' name;
- 71 (ii) the unit owner's name;
- 72 (iii) the unit owner's property address;
- 73 (iv) the unit owner's email address;
- 74 (v) a description of the documents requested; and
- 75 (vi) any election or request described in Subsection (3)(b); and
- 76 (b) a unit owner may:
- 77 (i) elect whether to inspect or copy the documents;
- 78

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- (ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 80 (iii) subject to Subsection (4), request that:
- 81 (A) the association of unit owners make the copies or electronic scans of the requested documents;
- 83 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 85 (C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 88 (D) the association of unit owners email the requested documents to an email address provided in the request.
- 90 (4)
- (a) An association of unit owners shall comply with a request described in Subsection (3).
- 92 (b) If an association of unit owners produces the copies or electronic scans:
- 93 (i) the copies or electronic scans shall be legible and accurate; and
- 94 (ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans and for time spent meeting with the unit owner, which may not exceed:
- 97 (A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 99 (B) 10 cents per page and ~~[\$15]~~ \$20 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.
- 101 (c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:
- 103 (i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and
- 105 (ii) the unit owner shall pay the duplicating service directly.
- 106 (d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.
- 109 (5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:
- 112 (a) the reasonable costs of inspecting and copying the requested documents;

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- 113 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the unit owner who made the
request for each day the request continues unfulfilled, beginning the sixth day after the day on which
the unit owner made the request; and
- 116 (c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies
of the requested documents.
- 118 (6)
- (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise
provided by law, a unit owner may file an action in court under this section if:
- 121 (i) subject to Subsection (9), an association of unit owners fails to make documents available to the
unit owner in accordance with this section, the association of unit owners' governing documents,
or as otherwise provided by law; and
- 124 (ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)
(d).
- 126 (b) In an action described in Subsection (6)(a):
- 127 (i) the unit owner may request:
- 128 (A) injunctive relief requiring the association of unit owners to comply with the provisions of this
section;
- 130 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 131 (C) any other relief provided by law; and
- 132 (ii) the court [~~shall~~] may award costs and reasonable attorney fees to the prevailing party, including
any reasonable attorney fees incurred before the action was filed that relate to the request that is the
subject of the action.
- 135 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the unit owner made in accordance with
Subsection (6)(b), notice to the association of unit owners, and a hearing in which the court finds a
likelihood that the association of unit owners failed to comply with a provision of this section, the
court shall order the association of unit owners to immediately comply with the provision.
- 140 (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on
which the unit owner files the motion.
- 142 (d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a),
the unit owner shall deliver a written notice to the association of unit owners that states:

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- 145 (i) the unit owner's name, address, telephone number, and email address;
- 146 (ii) each requirement of this section with which the association of unit owners has failed to comply;
- 148 (iii) a demand that the association of unit owners comply with each requirement with which the
association of unit owners has failed to comply; and
- 150 (iv) a date by which the association of unit owners shall remedy the association of unit owners'
noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to
the association of unit owners.
- 153 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.
- 155 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act.
- 157 (8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner
has under this section.
- 159 (9) An association of unit owners is not liable for identifying or providing a document in error, if the
association of unit owners identified or provided the erroneous document in good faith.
- 162 Section 2. Section **57-8-58** is amended to read:
- 163 **57-8-58. Liability of declarant or management committee -- Period of declarant control.**
- 165 (1) An association may not, after the period of declarant control, bring a legal action against a declarant,
a management committee, or an employee, an independent contractor, or an agent of the declarant or
the management committee related to the period of declarant control unless:
- 169 (a) the legal action is approved in advance at a meeting where owners of at least 51% in aggregate in
interest of the undivided ownership of the common areas and facilities are:
- 172 (i) present; or
- 173 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal
action at the meeting;
- 175 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:
- 176 (i) more than 75% in aggregate in interest of the total aggregate interest of the undivided ownership of
the common areas and facilities represented by those owners present at the meeting or represented
by a proxy as described in Subsection (1)(a); or
- 180 (ii) more than 51% in aggregate in interest of the undivided ownership of the common areas and
facilities;

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- 182 (c) the association provides each unit owner with the items described in Subsection (2);
183 (d) the association establishes the trust described in Subsection (3); and
184 (e) the association first:
185 (i) notifies the person subject to the proposed action of the action and the basis of the association's
claim; and
187 (ii) gives the person subject to the proposed action a reasonable opportunity to resolve the dispute that is
the basis of the action.
- 189 (2) Before unit owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each unit owner:
191 (a) a written notice that the association is contemplating legal action; and
192 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
194 (i) the likelihood that the legal action will succeed;
195 (ii) the likely amount in controversy in the legal action;
196 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
197 (iv) the likely effect the legal action will have on a unit owner's or prospective unit buyer's ability to
obtain financing for a unit while the legal action is pending.
- 199 (3) Before the association commences a legal action described in Subsection (1), the association shall:
201 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
203 (b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay
the costs to resolve the legal action.
- 205 (4) This section does not apply to an association that brings a legal action that has an amount in
controversy of less than \$75,000.
- 207 (5) In a legal action brought by one or more unit owners before the end of the period of declarant
control, a declarant may not use any funds paid by a unit owner to the declarant to pay for costs of
the legal action.

210 Section 3. Section **57-8a-227** is amended to read:

211 **57-8a-227. Records -- Availability for examination.**

212 (1)

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- (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, an association shall keep and make available to lot owners:
- 215 (i) each record identified in Subsections 16-6a-1601(1) through (5), [~~in accordance with~~] in the
manner described in Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606,
and 16-6a-1610; and
- 218 (ii) a copy of the association's:
- 219 (A) governing documents;
- 220 (B) most recent approved minutes;
- 221 (C) most recent budget and financial statement;
- 222 (D) most recent reserve analysis; and
- 223 (E) certificate of insurance for each insurance policy the association holds.
- 224 (b) An association may redact the following information from any document the association produces
for inspection or copying:
- 226 (i) a Social Security number;
- 227 (ii) a bank account number; or
- 228 (iii) any communication subject to attorney-client privilege.
- 229 (2)
- (a) In addition to the requirements described in Subsection (1), an association shall:
- 230 (i) make documents available to lot owners in accordance with the association's governing
documents; and
- 232 (ii)
- (A) if the association has an active website, make the documents described in Subsections (1)(a)(ii)(A)
through (C) available to lot owners, free of charge, through the website; or
- 235 (B) if the association does not have an active website, make physical copies of the documents described
in Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the
association's address registered with the Department of Commerce under Section 57-8a-105.
- 239 (b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.
- 240 (c) If a provision of an association's governing documents conflicts with a provision of this section, the
provision of this section governs.
- 242 (3) In a written request to inspect or copy documents:

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- 243 (a) a lot owner shall include:
- 244 (i) the association's name;
- 245 (ii) the lot owner's name;
- 246 (iii) the lot owner's property address;
- 247 (iv) the lot owner's email address;
- 248 (v) a description of the documents requested; and
- 249 (vi) any election or request described in Subsection (3)(b); and
- 250 (b) a lot owner may:
- 251 (i) elect whether to inspect or copy the documents;
- 252 (ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or
- 254 (iii) subject to Subsection (4), request that:
- 255 (A) the association make the copies or electronic scans of the requested documents;
- 257 (B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;
- 259 (C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
- 262 (D) the association email the requested documents to an email address provided in the request.
- 264 (4)
- (a) An association shall comply with a request described in Subsection (3).
- 265 (b) If an association produces the copies or electronic scans:
- 266 (i) the copies or electronic scans shall be legible and accurate; and
- 267 (ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans and for time spent meeting with the lot owner, which may not exceed:
- 270 (A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or
- 272 (B) 10 cents per page and ~~[\$15]~~ \$20 per hour for the employee's, manager's, or other agent's time.
- 274 (c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:
- 276 (i) the association shall arrange for the delivery and pick up of the original documents; and
- 278 (ii) the lot owner shall pay the duplicating service directly.

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- 279 (d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide
the necessary space, light, and power for the imaging equipment.
- 281 (5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an
association fails to comply with a provision of this section, the association shall pay:
- 284 (a) the reasonable costs of inspecting and copying the requested documents;
- 285 (b) for items described in Subsections (1)(a)(ii)(A) through (C), \$25 to the lot owner who made the
request for each day the request continues unfulfilled, beginning the sixth day after the day on which
the lot owner made the request; and
- 288 (c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies
of the requested documents.
- 290 (6)
- (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a
lot owner may file an action in court against the association under this section if:
- 292 (i) subject to Subsection (9), an association fails to make documents available to the lot owner in
accordance with this section, the association's governing documents, or as otherwise provided
by law; and
- 295 (ii) the association fails to timely comply with a notice described in Subsection (6)(d).
- 296 (b) In an action described in Subsection (6)(a):
- 297 (i) the lot owner may request:
- 298 (A) injunctive relief requiring the association to comply with the provisions of this section;
- 300 (B) [~~\$500~~] \$1,000 or actual damage, whichever is greater; or
- 301 (C) any other relief provided by law; and
- 302 (ii) the court [~~shall~~] may award costs and reasonable attorney fees to the prevailing party, including
any reasonable attorney fees incurred before the action was filed that relate to the request that is the
subject of the action.
- 305 (c)
- (i) In an action described in Subsection (6)(a), upon motion by the lot owner made in accordance with
Subsection (6)(b), notice to the association, and a hearing in which the court finds a likelihood that
the association failed to comply with a provision of this section, the court shall order the association
to immediately comply with the provision.

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- (ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.
- 312 (d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:
- 315 (i) the lot owner's name, address, telephone number, and email address;
- 316 (ii) each requirement of this section with which the association has failed to comply;
- 317 (iii) a demand that the association comply with each requirement with which the association has failed to comply; and
- 319 (iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.
- 322 (7)
- (a) The provisions of Section 16-6a-1604 do not apply to an association.
- 323 (b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- 325 (8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.
- 327 (9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.
- 330 Section 4. Section **57-8a-229** is amended to read:
- 331 **57-8a-229. Liability of declarant or board of directors -- Period of administrative control.**
- 332 (1) An association may not, after the period of administrative control, bring a legal action against a declarant, a board of directors, or an employee, an independent contractor, or the agent of the declarant or the previous board of directors related to the period of administrative control unless:
- 336 (a) the legal action is approved in advance at a meeting where owners of at least 51% of the allocated voting interests of the lot owners in the association are:
- 338 (i) present; or
- 339 (ii) represented by a proxy specifically assigned for the purpose of voting to approve or deny the legal action at the meeting;
- 341 (b) the legal action is approved by vote in person or by proxy of owners of the lesser of:
- 342 (i) more than 75% of the allocated voting interests of the lot owners present at the meeting or represented by a proxy as described in Subsection (1)(a); or

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- 344 (ii) more than 51% of the allocated voting interests of the lot owners in the association;
346 (c) the association provides each lot owner with the items described in Subsection (2);
347 (d) the association establishes the trust described in Subsection (3); and
348 (e) the association first:
349 (i) notifies the person subject to the proposed legal action of the legal action and basis of the
association's claim; and
351 (ii) gives the person subject to the claim a reasonable opportunity to resolve the dispute that is the basis
of the proposed legal action.
- 353 (2) Before lot owners in an association may vote to approve an action described in Subsection (1), the
association shall provide each lot owner:
355 (a) a written notice that the association is contemplating legal action; and
356 (b) after the association consults with an attorney licensed to practice in the state, a written assessment
of:
358 (i) the likelihood that the legal action will succeed;
359 (ii) the likely amount in controversy in the legal action;
360 (iii) the likely cost of resolving the legal action to the association's satisfaction; and
361 (iv) the likely effect the legal action will have on a lot owner's or prospective lot buyer's ability to
obtain financing for a lot while the legal action is pending.
- 363 (3) Before the association commences a legal action described in Subsection (1), the association shall:
365 (a) allocate an amount equal to 10% of the cost estimated to resolve the legal action, not including
attorney fees; and
367 (b) place the amount described in Subsection (3)(a) in a trust that the association may only use to pay
the costs to resolve the legal action.
- 369 (4) This section does not apply to an association that brings a legal action that has an amount in
controversy of less than \$75,000.
- 371 (5) In a legal action brought by one or more lot owners before the end of the period of administrative
control, a declarant may not use any funds paid by the lot owner to the declarant to pay for costs of
the legal action.

375 Section 5. Section **57-8a-502** is amended to read:

376 **57-8a-502. Period of administrative control.**

376

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- (1) As used in this section, "undeveloped land" means land within an association that a declarant designates for potential development on which no new development has taken place and no infrastructure for construction has been installed.
- 379 ~~[(1)]~~ (2) ~~[Unless otherwise provided for in a declaration,]~~ For an association comprised of 300 lots or
380 more, a period of administrative control terminates on~~[the first to occur of the following]:~~
- 382 (a) the date provided in the declaration; or
- 383 ~~[(a)]~~ (b) if the declaration does not provide a date, the first to occur of the following:
- 384 (i) 60 days after ~~[75%]~~ 80% of the lots~~[that may be created]~~ are conveyed to lot owners other than a
385 declarant;
- 386 ~~[(b)]~~ (ii) seven years after all declarants have ceased to offer lots for sale in the ordinary course of
387 business; or
- 388 ~~[(c)]~~ (iii) the day the declarant, after giving written notice to the lot owners, records an instrument
389 voluntarily surrendering all rights to control activities of the association.
- 391 (3) For an association comprised of fewer than 300 lots, a period of administrative control terminates on
392 { the first to occur of the following } :
- 393 (a) the date provided in the declaration; or
- 394 (b) if the declaration does not provide a date, the first to occur of the following:
- 395 (i) 60 days after 80% of the lots are conveyed to lot owners other than a declarant;
- 396 (ii) one year after all declarants have ceased to offer lots for sale in the ordinary course of business; or
- 398 (iii) the day the declarant, after giving written notice to the lot owners, records an instrument voluntarily
399 surrendering all rights to control activities of the association.
- 401 ~~[(2)]~~ (4)
- (a) A declarant may voluntarily surrender the right to appoint and remove a member of the board before
402 the period of administrative control terminates under Subsection ~~[(1)]~~ (2).
- 404 (b) Subject to Subsection ~~[(2)(a)]~~ (4)(a), the declarant may require, for the duration of the period of
405 administrative control, that actions of the association or board, as specified in a recorded instrument
406 executed by the declarant, be approved by the declarant before they become effective.
- 408 (c) During a period of administrative control, except as provided in Subsection ~~[(2)(a),]~~ (4)(a), a
409 declarant may appoint the declarant's officers, employees, or agents as members of the board.
- 411 ~~[(3)]~~ (5)

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(a) Upon termination of the period of administrative control, the lot owners shall elect a board consisting of an odd number of at least three members, a majority of whom shall be lot owners.

414 (b) Unless the declaration provides for the election of officers by the lot owners, the board shall elect officers of the association.

416 (c) The board members and officers shall take office upon election or appointment.

417 ~~{(6)}~~ }

~~{(a)}~~ (6) When calculating the percentage in Subsection (2)(b)(i) or (3)(b)(i), a declarant may not include any undeveloped land.

419 ~~{(b)}~~ {After the day on which the declarant conveys at least one lot to a lot owner other than the declarant, the declarant may not amend the declaration without approval of a majority of lot owners.}

420 (7)

(a) Except as provided in Subsection (7)(b), after the day on which the declarant conveys at least 80% of the lots to lot owners other than the declarant, the declarant may not amend the declaration unless the majority of lot owners approve the declarant's proposed amendment.

424 (b) After the day on which the declarant conveys at least 80% of the lots to a lot owner other than the declarant, the declarant may amend the declaration without a majority vote of the lot owners approving the declarant's proposed amendment if the amendment to the declaration relates only to lots the declarant has not conveyed to lot owners other than the declarant.

429 Section 6. **Effective date.**

This bill takes effect on May 7, 2025.

2-20-25 12:13 PM